



*Easy Read Edition*

# **The Right to Make Choices: International Laws and Decision- Making by People with Disabilities**

## **Part 3: What is Guardianship?**

### 3. What is Guardianship?



- **Guardianship** is a system that allows one person to make decisions about another person's life.

- These decisions can include where you live, your friends, your money, and your health care.

- Sometimes, people under guardianship are not allowed to vote, get married, or take care of their children.





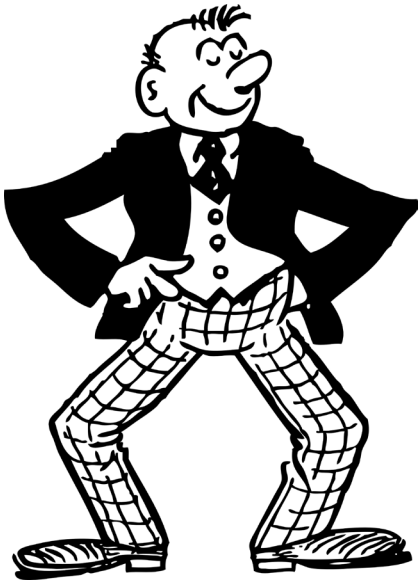
- In most countries, children have guardians. A parent takes responsibility for a child.
- Sometimes grandparents, step-parents, godparents, or someone else takes responsibility.



- Under the law, children cannot make important decisions without approval. As children grow older, they make their own decisions.



- Legal adults do not have guardians. Legal adults make their own choices.
- **People with disabilities under guardianship do not have the same rights as other adults.**



- The person with a disability cannot make their own decisions under guardianship. **Another person is the guardian.**

- The guardian makes the decisions.



- For a guardianship you must go to court. A judge must declare guardianship.

- **Full guardianship** means the guardian makes every decision.

- **Limited guardianship** means the guardian only makes certain decisions. Examples include healthcare and money management.

# Guardianship takes choices away from people with disabilities.

- For example, imagine that you want to find a place to live and are under guardianship.



- If you are using **supported decision-making** instead of guardianship, you could simply call up your sister and have her help you through the process.



- If you have a **guardian**, you could not get an apartment without your guardian's consent and assistance, even if you would rather have someone else help you instead of your guardian.

- Even if your guardian could only make decisions about how you spend your money, you wouldn't be able to pay the rent for your apartment without their help.



- This means the guardian has a lot of power to say where you can or can't live.



- Some countries' laws say that a guardian must consider your wishes when they make a decision.

- It is hard to make sure your wishes are considered by a guardian.



- You may have to go to court to complain about your guardian's decisions.
- This may be expensive and hard.
- In some countries, you cannot even go to court on your own to complain about a guardian – someone else has to make the complaint for you.

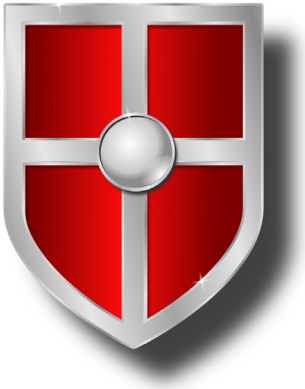


- Guardianship frustrates people because they cannot make their own choices.



- **Abuse can happen under guardianship.**
- For example, a guardian might:
  - Refuse to let you spend time with friends or family that you love because the guardian thinks you shouldn't spend time with them
  - Force you into an institution or group home
  - Make healthcare choices you do not want
  - Steal or misuse money (this is illegal!)
  - Take away your right to marry or have children



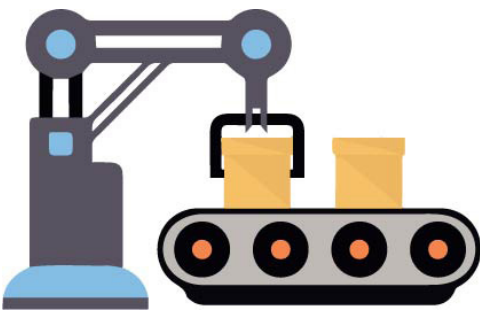


- People under guardianship cannot always protect themselves from what the guardian might do.
  - They may not know the situation they are in.
- Guardians can spend a person's money without telling them.
  - Even if the guardian intends to spend it to help the person, that's still money spent that the person under guardianship has no control over.
- Sometimes guardians have made health care decisions for the person without telling the person under guardianship.

- Guardians can make choices about a person without getting to know them.



- This is especially common if the guardian is the government itself or is a stranger appointed by the court.
- They may make the same choices for many people with disabilities under guardianship, even though those people all want different things.



- Even if the guardian knows the person very well, that guardian still has the power to do anything they want with that person's life without talking to the person at all.

- Sometimes guardians can commit **neglect**.



- In this situation, the person with a disability cannot legally make decisions for himself or herself, but also cannot get the guardian to act on his or her behalf.
- As a result, the person may not be able to spend money to buy food or pay rent, and may face serious problems as a result.
- People with disabilities should have the right to make their own choices, rather than having someone else making choices for them.

## Guardianship VS Supported Decision-Making: An Illustration

### DIFFERENCE BETWEEN GUARDIANSHIP AND SUPPORTED DECISION MAKING



*Illustration by Pip Malone*

# Glossary

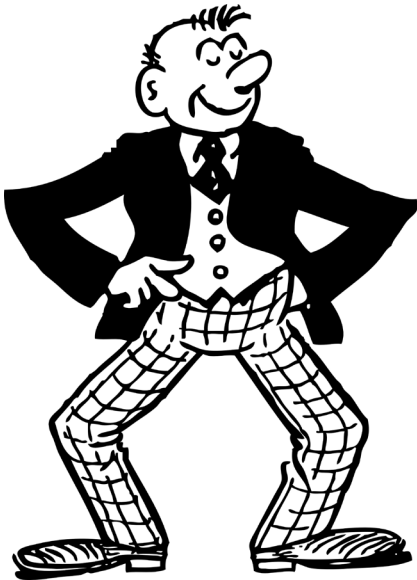
# Glossary

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## Full Guardianship

Guardianship where the guardian makes decisions involving every, or almost every, part of a person's life – including health care, money, where a person lives, and what a person does during the day.



## Guardianship

An arrangement where someone is appointed by law to make decisions about another person's life. In many countries, guardians will be appointed for disabled adults who are seen as unable to make their own decisions. Guardianship could be a Full Guardianship or a Limited Guardianship.



## Limited Guardianship

Guardianship where the guardian makes decisions about some parts of a person's life, such as money and healthcare, but not others.



## Supported Decision-Making

A way to make decisions. A person with a disability chooses someone to help them understand or communicate a decision. The person with a disability is free to make their own decision but has help from the supporter.